



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,689	01/25/2005	Guido Greco	Q84048	4035

23373 7590 11/30/2005

SUGHRUE MION, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
SUITE 800  
WASHINGTON, DC 20037

EXAMINER

COOLEY, CHARLES E

ART UNIT PAPER NUMBER

1723

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/510,689	<b>Applicant(s)</b> GRECO ET AL.	
	<b>Examiner</b> Charles E. Cooley	<b>Art Unit</b> 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10082004</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 1723

## **NON-FINAL OFFICE ACTION**

1. This application has been assigned to Technology Center 1700, Art Unit 1723 and the following will apply for this application:

Please direct all written correspondence with the correct application serial number for this application to Art Unit 1723.

Telephone inquiries regarding this application should be directed to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197 or to the Examiner at (571) 272-1139. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

### ***Priority***

2. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). None of the CERTIFIED copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

### ***Information Disclosure Statement***

3. Note the attached PTO-1449 form submitted with the Information Disclosure Statement filed 8 OCT 2004. The foreign references are crossed through, as they are absent from the IFW file. However, they are cited on the attached PTO-892 form and copies are attached to this office action.

***Specification***

4. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

5. The Abstract of the Disclosure is objected to because:

a. the inclusion of legal phraseology such as "means" in the abstract is improper.

Correction is required. See MPEP § 608.01(b).

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed (MPEP 606.01).

***Claim Rejections - 35 U.S.C. § 112, second paragraph***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

All occurrences of "them", "they", and "it" throughout the claims should positively rather than inferentially recite which element(s) is/are being referred to. It is unclear what elements these terms are specifically referring to.

Claim 14: "the sensor means" lacks antecedent basis. It appears claim 14 should depend from claim 13.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**10. Claims 1, 2, 3, 4, 12, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas et al. (US 5,711,601).**

The patent to Thomas et al. (US 5,711,601) discloses a processing apparatus comprising a main structure (12) defining a housing space (Fig. 14) with an access opening, door means (14) coupled to the main structure (12) and selectively movable from a closed position (Fig. 1) to an open position (Fig. 14) of at least part of the access opening, and vice versa, support means (20, 26) for at least one container (22) of fluid products to be processed, housed in the main structure (12) and movable from an operating processing position to a position for loading/unloading the at least one container (the position of Fig. 14), the door means (14) comprise movement means (100, 124, 136) mechanically interacting with the support means (20, 26) so as to move them from the operating processing position to the loading/unloading position as a result of selective opening of the door means (col. 5, line 19 through col. 6, line 25); the

Art Unit: 1723

support means comprise at least one support member (130 or 132) which is operatively movable in order to support and move the at least one container (22) in an operating processing phase for the fluid products; driving means (col. 4, lines 1-2) which are connected to the support means (20, 26) in order to impart, in use, a mixing movement to the at least one movable support member (130 or 132); the movement means (100, 124, 136) can be moved by way of the door means (14) from a rest position, in which they are disengaged from the support means (20, 26 - Fig. 11), to an engagement position, in which they engage with the support means (20, 26) in order to move them from the operating processing position to the loading/unloading position (Figs. 12, 13); the method being disclosed at col. 3, line 57 through col. 4, line 2; col. 5, line 5 through col. 6, line 56 and as seen in Figs. 4-14).

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

Art Unit: 1723

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**13. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (US 5,711,601) in view of Gatlin (US 5,462,353).**

The patent to Thomas et al. (US 5,711,601) does not disclose the damping means/devices. The patent to Gatlin '353 discloses a processing device with a support means 26, 54 for holding a container; a main structure 26; and damping means 28 interposed between the main structure 26 and the support means 26, 54 for holding the container; the damping means 28 being dampers fixed to the main structure 26. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have provided the device of Thomas et al. '601 with damping means as disclosed by Gatlin for the purposes of dampening the vibrations in the device and to prevent the vibrations from the support means from being transferred to the main structure (col. 2, lines 51-58 and col. 5, line 63 through col. 6, line 1).

***Allowable Subject Matter***

14. Claims 9, 10, 11, 13, and 14 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Charles", followed by a long, horizontal, wavy line.

Charles E. Cooley  
Primary Examiner  
Art Unit 1723

24 November 2005